

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**THE STATE OF OHIO, ex rel. DAVE YOST,
OHIO ATTORNEY GENERAL,**

and

THE UNITED STATES OF AMERICA,

Plaintiffs,

v.

**NORFOLK SOUTHERN CORPORATION and
NORFOLK SOUTHERN RAILWAY COMPANY,**

Defendants.

Civil Action No. 4:23CV517

4:23CV675

Hon. John R. Adams

**JOINT STIPULATION AND PROPOSED ORDER REGARDING CLASS ACTION
DEPOSITION TRANSCRIPTS**

Plaintiff State of Ohio and Defendants Norfolk Southern Corp. and Norfolk Southern Railway Co. (collectively, “Norfolk Southern”) hereby stipulate as follows:

1. The Parties stipulate that approximately 92 depositions were conducted in the Class Action litigation captioned *In Re East Palestine Train Derailment*, Case No. 4:23-cv-00242-BYP (N.D. Ohio 2023) regarding the February 3, 2023 derailment in East Palestine, Ohio (the “Class Action”).

2. The Parties stipulate that the subject matter of the depositions and sworn testimony conducted in the Class Action litigation substantially overlaps with the facts underlying this matter.

3. Ohio has obtained 69 deposition transcripts through discovery conducted in this case.

See Exhibit A for a list of deposition transcripts provided to Ohio by Norfolk Southern and in

response to subpoenas issued by Ohio.

4. The Parties have agreed not to re-depose a witness for whom a transcript was provided on the topics covered in the original deposition. To the extent a Party believes an additional deposition is warranted, it will provide a list of anticipated topics not covered in the original deposition(s) and will limit questioning at the subsequent deposition to only those topics. The Parties will not re-tread testimony in the deposition transcripts identified in Exhibit A, but do not waive the right to request depositions of such witnesses or to explore areas not sufficiently addressed in prior depositions.

5. The Parties stipulate that the deposition transcripts, the corresponding exhibits of each deposition transcript therein, and any sworn testimony from the Class Action may be used to support dispositive motions filed in this matter as if the testimony was recorded in the above-captioned case and for any and all other purposes permitted by the Federal Rules of Civil Procedure as if the testimony was recorded in the above-captioned case.

6. Additional sworn testimony, including declarations in support of the United States of America's Proposed Consent Decree, has been provided in the above-captioned case.

7. The Parties further stipulate that any such sworn testimony, including declarations in support of the United States of America's Proposed Consent Decree, may be used to support dispositive motions filed in this matter and for any and all other purposes permitted by the Federal Rules of Civil Procedure.

8. The Parties agree to treat the deposition transcripts and declarations referenced above as if they had been taken in this case.

9. Except as provided in Paragraphs 5 and 7, the Parties do not waive, and expressly preserve, their rights and objections concerning the relevancy and admissibility of parts of previous

deposition testimony, as well as objections to parts of exhibits, and parts of previous sworn testimony, for any purpose including impeachment. And except as provided in Paragraphs 5 and 7, the Parties do not concede that portions of the depositions, exhibits, and sworn testimony that are the subject of this stipulation are relevant or admissible in the current action or any other action.

IT IS SO STIPULATED AND AGREED BY THE PARTIES.

SO ORDERED this 6th day of December, 2024.

/s/ John R. Adams

John R. Adams
U.S. District Judge

Date: December 05, 2024

WE SO MOVE and agree to abide by the terms of this Order

DAVE YOST
OHIO ATTORNEY GENERAL

/s/ Nora M. Baty

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*Signed per email authorization received 12/5/24